

### REMARKS

Claims 1 through 18 are pending in this application. Claims 1 through 10, 13 through 16, and 18 are amended. Claims 19 through 24 are canceled. Applicant reserves the right to pursue original and other claims in this and other applications.

The Specification, as well as Figures 6 through 11, as amended in the Amendment filed September 12, 2008, stand objected to under 35 U.S.C. § 132(a) as introducing new subject matter into the disclosure. Per Examiner's request in the outstanding Office Action, the September 12 amendments to the drawings and Specification, as well as the drawings submitted in the Amendment of December 14, 2007, are withdrawn. Accordingly, Applicant respectfully requests that the objection be withdrawn.

Claims 1 through 18 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The pending claims, as amended, no longer recite the allegedly offending language. Accordingly, Applicant respectfully requests that the § 112, first paragraph, rejection of claims 1 through 18 be withdrawn, and the claims allowed.

Claims 1 through 18, as amended, recite limitations contained in the original claims of this application, which were amended without prejudice. Independent claims 1, 9, and 18 further recite "wherein the first rotation mode and the second rotation mode are different in recording speed."

The Non-Final Office Action mailed December 2, 2004, rejected originally-filed independent claims 1, 9, 18 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,172,955 ("Hashimoto"). Office Action of December 2, 2004, at 2-4. Applicant here respectfully traverses the basis of that rejection.

Claims 1 and 18 each recite, *inter alia*:

a step of formatting said recording media in a first rotation mode;  
a step of stopping, in response to a request for storing data in said recording media, formatting of said recording media; [and]

a step of setting said recording media in a second rotation mode that is suitable for storing data in said recording media;

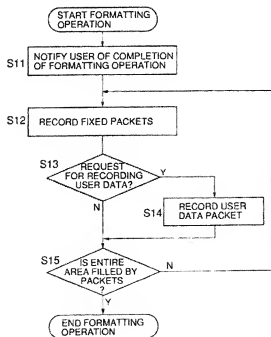
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wherein the first rotation mode and the second rotation mode are different in recording speed.

Claim 9 recites an information storing apparatus having a plurality of rotation modes of recording media, wherein “the first rotation mode and the second rotation mode are different in recording speed.”

Applicant respectfully submits that Hashimoto fails to disclose “wherein the first rotation mode and the second rotation mode are different in recording speed,” as recited in claims 1, 9, and 18. The December 2, 2004 Office Action asserts that steps S12 and S14 of Hashimoto’s Figure 5 (reproduced below) disclose the “first mode” and “second mode,” respectively. Office Action of December 2, 2004, at 3.

FIG.5



Hashimoto does not disclose a first rotation mode and a second rotation mode with different respective recording speeds. Rather, "in step S12, an actual formatting operation is performed as a background process of the host computer." Where "the entire area or a designated area of the optical disc ... is filled by packets having a fixed length." Hashimoto, Col. 8, ll. 37-40. In "step S14, the formatting operation is temporarily stopped so as to record a user data packet." Hashimoto, Col. 8, ll. 47-49. Thus, Hashimoto discloses two different types of packets being recorded at steps S12 and S14; not packets being recorded at different recording speeds.

Therefore, Hashimoto fails to disclose all elements of claims 1, 9, and 18. Claims 2 through 8 depend from claim 1, while claims 10 through 17 depend from claim 9. These claims are allowable over Hashimoto for at least the reasons discussed above, as well as on their own merits. Therefore, Applicant respectfully requests that the pending claims be allowed.

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Dated: April 2, 2009

Respectfully submitted,

By 

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